

# EXHIBIT 2

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

PETTER INVESTMENTS, INC., )  
D/b/a RIVEER, a Michigan )  
corporation, )

Plaintiff, )

vs. )

Civil No. 2:14-cv-00045-BCW

HYDRO ENGINEERING, INC., )  
a Utah corporation, and )  
CALIFORNIA CLEANING )  
SYSTEMS, a California )  
company, )

Defendants. )

\_\_\_\_\_  
AND RELATED COUNTERCLAIMS.)  
\_\_\_\_\_

DEPOSITION OF ALAN McCORMICK,

taken at 222 South Main Street, Suite 2200,  
Salt Lake City, Utah 84101, commencing at  
9:04 a.m., on Thursday, April 24, 2014,  
before Ann Fleming, RPR Notary Public in  
and for the State of Utah.

1 Q. (By Mr. Lobbin) Exhibit 10 is some  
2 excerpts from Hydro's website at various points in  
3 time. Do you see going to the second to the last page  
4 of this?

5 MR. MILLER: I'll object to foundation,  
6 and go ahead.

7 Q. (By Mr. Lobbin) Page number RIV001114; do  
8 you see that?

9 A. I do.

10 Q. Is this a depiction of the Hydropad as it  
11 was designed in the 1998 time frame?

12 A. Yes.

13 Q. So I think we talked about, just trying to  
14 get it straight in my head, talking about some early  
15 containment pads, for example, the Larsen  
16 implementation. That was not this design, correct?

17 A. It was not.

18 Q. And then at some point the Hydropad was  
19 designed and this particular design that we're looking  
20 at was utilized until the early 2000s, correct?

21 A. Yes.

22 Q. When the impervious top was designed,  
23 correct?

24 A. Yes.

25 Q. And so I believe in this design the

1 vehicle here is sitting on top of the steel sections  
2 going across and that's what would be considered a  
3 grate, correct?

4 A. Yeah, okay.

5 Q. And then the water used to wash would fall  
6 into and down through the spaces between the grating  
7 into a pan that's inside that the Hydropad and would be  
8 collected there, correct?

9 A. Yeah, the pan is all the way on the floor  
10 of these channels.

11 Q. And there were no side troughs in this  
12 design?

13 A. No.

14 Q. Sticking with that same image on RIV1114,  
15 the pan inside you said is basically at the floor,  
16 correct?

17 A. Yes.

18 Q. If we took that pan -- now, is that pan a  
19 flat continuous piece of steel?

20 A. Piece of sheet metal, yes.

21 Q. And it's flat, correct? If that piece of  
22 sheet metal was brought up and attached to the  
23 underside of the grate and so that the water didn't  
24 flow down through the grate with you, but it flowed  
25 into the interstices between the grating onto that

1 piece of sheet metal that was now attached to the  
2 underside of that grating, and the pad was tilted,  
3 logic would say the water would flow toward the low end  
4 of the pad, correct?

5 MR. MILLER: Objection to the form.

6 Q. (By Mr. Lobbin) In that hypothetical?

7 MR. MILLER: Objection to the form.  
8 Objection to the extent it calls for legal conclusions  
9 with regard to claim terms, and hypothetical. Go  
10 ahead.

11 THE WITNESS: Well, like if you turn this  
12 pad upside down where the floor was welded to it and  
13 put all these on top of that and then turned it on its  
14 edge and poured water on it, it would run right off the  
15 pad, you're right.

16 Q. (By Mr. Lobbin) And then if you were so  
17 inclined, you could devise and attach some sort of side  
18 gutter at the low end where the water was flowing off  
19 and you would have a side gutter, correct?

20 A. Yeah, you would have to run the length of  
21 whichever way this was tilted.

22 Q. So all I've done is I've brought that  
23 piece of sheet metal up, slapped it on the underside of  
24 that grating, attached it, tilted the pad and attached  
25 the side trough. Do you understand the hypothetical

1 that I'm imagining?

2 MR. MILLER: Same objection.

3 THE WITNESS: Not really understanding  
4 where you're going, but I understand if I had these  
5 rails mounted on a solid surface, nothing would go  
6 through that solid surface.

7 Q. Correct. And if you tilted it, the water  
8 would flow off?

9 A. (Witness nods head.)

10 Q. It would still be a grate, correct, it  
11 would just now have a tray attached to the other side  
12 of the grate?

13 MR. MILLER: Same objection.

14 THE WITNESS: I don't believe it would at  
15 that point be a grate because I don't think -- it would  
16 not be detachable. It's not a grate that you can  
17 remove. Why would you want to remove it? It's just  
18 the top.

19 Q. (By Mr. Lobbin) Nothing's changed about  
20 these pieces of steel going, these cross beams, if you  
21 will?

22 A. I wouldn't do that, these cross -- with  
23 these, we had entry points into this box so that you  
24 could get in and clean it out, wouldn't need that  
25 anymore, so those would all go away. You would be able

1 to weld these directly on top of that top plate, why  
2 would you not do that? Are we in a design meeting  
3 here? I'm not understanding where we're going with  
4 this, I guess.

5 Q. Okay. It's quite simple. We established  
6 that in the Hydropad design we're looking at we have a  
7 grate upon which the vehicle sits, the water flows down  
8 and through the interstices between the grate into a  
9 pan that's located at the bottom.

10 And I'm asking you a very simple question,  
11 that if we brought it up, we brought that piece of pan  
12 up to the underside of that grate, it would still be a  
13 grate, right, that hasn't changed; isn't that correct?

14 MR. MILLER: Same objections plus asked  
15 and answered.

16 THE WITNESS: All right.

17 Q. (By Mr. Lobbin) We'd still call it a  
18 grate?

19 A. Yeah, and instead of collecting the water  
20 in the pan, it would run off onto the ground or into a  
21 gutter if you put a gutter on there, like our patent.

22 Q. Like your patent.

23 A. Correct.

24 Q. If you turn to this page, it's about three  
25 pages into this exhibit. I just want to make sure I'm





RIV001114